

SB

256

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/2/96

FURTHER: State Affairs

Date of 5-Day Notice: 3/14/96
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: _____

The C&RA Committee considered SB 256

Relating to the offices of mayor and mayor pro tempore of a second class city.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Roll E.C. Bell</i>	✓	<i>Paul D. Zehner</i>	✓		
<i>Lynn Hoffman</i>					
<i>Tom Kelly</i>	✓				
CHAIR: <i>John Loren</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Comm. Reg'l Affairs	2/2/96	✓	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

FISCAL NOTE

Revision Date: February 20, 1996 Dept. Affected: Community & Regional Affairs
 Title: An Act relating to the offices of mayor and BRU: none
and mayor pro tempore of a second class ... Component none
 Sponsor: Sen. Adams
 Requestor: Senate C&RA COMPONENT SERIAL NO. --

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSO:IAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0

REVENUE FUND SOURCE:

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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)
 Under current statutes, mayors of second class cities are elected from the elected council members by the council members themselves. This legislation would create the option of a second city passing an ordinance that would provide for the election of the mayor by city voters rather than the council. DCRA staff would certainly be involved in assisting cities understand, and perhaps implement, this option. The department would also likely prepare informational materials to educate cities about this option. However, these efforts would be absorbed by existing departmental staff and resources. The department anticipates no significant fiscal impact as a consequence of this legislation.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Division of Administrative Services Date: 2/20/96
 Approved by Commissioner: *Mike Dora* Date: 2/20/96
 Agency: Community & Regional Affairs

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Official Business

February 29, 1996

TO: Sen. John Torgerson, Chair
Senate Community and Regional Affairs Committee

FROM: Sen. Al Adams *AAA*

RE: SB 256--Scheduling Request

I would appreciate it if you would schedule SB 256 for a hearing.

Under current law, mayors of second class cities are elected by the elected city council members themselves. SB 256 would create the option of a second class city passing an ordinance that would allow for the election of the mayor by the voters rather than the city council members.

This legislation was initially requested by the City of Savoonga, and the concept was endorsed by the Alaska Municipal League Conference held last fall in Valdez.

Thank you for your consideration of this request.

as to which any pretended exercise of discretion would have been in legal essence arbitrary and wrongful and thus unlaw-

ful. *Reherd v. Manders*, 66 F. Supp. 520 (D. Alaska 1946).

Collateral references. — 56 Am. Jur. 2d, *Municipal Corporations, Counties, and Other Political Subdivisions*, §§ 231-336.

Sec. 29.20.230. Election and term of mayor. (a) The mayor of a borough or first class city is elected at large. The mayor of a borough or first class city serves a term of three years, unless by ordinance a different term not to exceed four years is provided. The current term of an incumbent mayor may not be altered. The regular term of a mayor of a borough or first class city begins on the first Monday following certification of the election.

(b) The mayor of a second class city is elected by and from the council, and serves until a successor is elected and qualifies. The council of a second class city shall meet on the first Monday after certification of the regular election and elect a mayor who takes office immediately. The mayor of a second class city serves a one-year term, unless a longer term is provided by ordinance. The mayor of a second class city may serve only while a member of the council regardless of the term established for the office of mayor.

(c) Except by ordinance ratified by the voters, no limit may be placed on the total number of terms or number of consecutive terms a mayor may serve. (§ 7 ch 74 SLA 1985)

Sec. 29.20.240. Qualifications for the office of mayor. (a) A voter of the municipality is eligible to hold the office of mayor in a borough or first class city. A member of the city council is eligible to hold the office of mayor in a second class city.

(b) Residency requirements for the office of mayor not exceeding three years may be prescribed by ordinance. (§ 7 ch 74 SLA 1985)

Sec. 29.20.250. Powers and duties of mayor. (a) If a municipality has not adopted a manager plan of government, the mayor is the chief administrator and the mayor has the same powers and duties as those of a manager under AS 29.20.500.

(b) The mayor may take part in the discussion of a matter before the governing body. The mayor may not vote, except that the mayor of a first class city or the mayor of a borough with a manager form of government may vote in the case of a tie. The mayor of a second class city, as a council member, may vote on all matters. (§ 7 ch 74 SLA 1985)

Sec. 29.20.260. Executive absence. The borough mayor, subject to assembly approval, shall designate a person to act as mayor during the borough mayor's temporary absence or disability. If a manager plan has been adopted, the assembly shall designate by resolution a borough administrative official to act as manager during the manager's absence or disability. (§ 7 ch 74 SLA 1985)

Sec. 29.20.270. Veto. (a) Except as provided in (c) — (e) of this section, the mayor may veto an ordinance, resolution, motion, or other action of the governing body and may strike or reduce appropriation items.

(b) A veto must be exercised before the next regular meeting of the governing body and must be accompanied by a written explanation of the reasons for the veto. A veto may be overridden by vote of two-thirds of the authorized membership of the governing body within 21 days following exercise of the veto, or at the next regular meeting, whichever is later.

(c) The veto does not extend to

(1) appropriation items in a school budget ordinance;

(2) actions of the governing body sitting as the board of equalization or the board of adjustment;

(3) adoption or repeal of a manager plan of government.

(d) The mayor of a second class city has no veto power.

(e) The veto does not extend to an ordinance adopted under AS 04.11.498. This subsection applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985; am §§ 13, 14 ch 80 SLA 1986)

Collateral references. — 56 Am. Jur. 62 C.J.S., Municipal Corporations, 2d, Municipal Corporations, Counties, and § 421. Other Political Subdivisions, § 360. Passing bill over veto. 2 ALR 1593.

Sec. 29.20.280. Vacancy in the office of mayor. (a) The governing body shall, by two-thirds concurring vote, declare the office of mayor vacant only when the person elected

(1) fails to qualify or take office within 30 days after election or appointment;

(2) unless excused by the governing body, is physically absent for 90 consecutive days;

(3) resigns and the resignation is accepted;

(4) is physically or mentally unable to perform the duties of office;

(5) is convicted of a felony or of an offense involving a violation of the oath of office;

(6) is convicted of a felony or misdemeanor described in AS 15.56;

(7) is convicted of a violation of AS 15.13;

(8) no longer physically resides in the municipality; or

(9) if a member of the governing body in a second class city, misses three consecutive regular meetings and is not excused.

(b) A vacancy in the office of mayor occurring six months before a regular election shall be filled by the governing body. The person appointed serves until the next regular election when a successor is elected to serve the balance of the term. If a member of the governing body is appointed mayor, the member shall resign the seat on the governing body. If a vacancy occurs more than six months before a regular election, the governing body shall call a special election to fill the unexpired term.

(c) Notwithstanding (b) of this section, a vacancy in the office of mayor of a second class city shall be filled by and from the council. A mayor appointed under this subsection serves the balance of the term to which appointed, except the mayor may serve only while a member of the council. (§ 7 ch 74 SLA 1985)

Article 4. Boards and Commissions.

Section
300. School boards
310. Utility boards

Section
320. Other boards and commissions

Sec. 29.20.300. School boards. (a) Each municipal school district has a school board. Except as provided in (b) of this section, members of a school board are elected at the regular election for three-year terms and until their successors take office. Members are elected at large unless a different method of election has been approved by the voters in a regular election.

(b) The assembly is the school board for a third class borough. The mayor is the presiding officer of the assembly and president of the school board. However, the mayor may not veto an action of the school board. (§ 7 ch 74 SLA 1985)

Cross references. — For further provisions relating to school boards, see AS 14.14.

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 231-336.

Sec. 29.20.310. Utility boards. (a) The governing body of a municipality operating a public utility may provide by ordinance for a utility board of five members and define the board's powers and duties.

(b) As determined by ordinance, members of a utility board are either appointed by the mayor and confirmed by the governing body or are elected at a regular election. The term of a utility board member is two years and until a successor is selected and qualifies. However, the governing body may by ordinance provide for a different term not to exceed four years. The current term of an elected incumbent may not be altered.

Resolution of the Alaska Municipal League

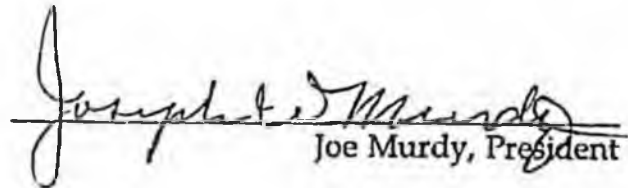
Resolution No. 96-7

RESOLUTION SUPPORTING AN AMENDMENT TO AS TITLE 29
TO GIVE AN OPTION TO SECOND CLASS CITIES
TO PERMIT THEIR MAYOR TO BE ELECTED DIRECTLY BY VOTERS

WHEREAS, the Alaska Municipal League supports the policy of providing municipalities with the maximum flexibility and local control in the exercise of municipal powers; and

WHEREAS, under current law, the mayor of a second class city must be elected from and by the council and may not be elected directly by the voters,

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports amendments to AS Title 29 that will permit second class cities the choice of whether to elect the mayor directly by the voters or to continue to elect the mayor from and by the council.


Joe Murdy, President

ATTEST:


Kevin C. Ritchie, Executive Director

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Co/Dept	Sen. Adams	Co	AML		
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SUPPORT



**WALRUS CAPITAL OF THE WORLD
SAVOONGA, ALASKA**



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NOVEMBER 22, 1995

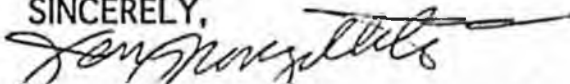
TO: SENATOR AL ADAMS
ALASKA STATE LEGISLATIVE
STATE CAPITOL
JUNEAU, AK.
99801-1182

SUBJECT: RESOLUTION AMENDMENT
TITLE 29 CHANGES

DEAR SENATOR ADAMS,

ENCLOSED PLEASE FIND A RESOLUTION NO. 96-01 AS PASSED DURING THE
ALASKA MUNICIPAL LEAGUE CONFERENCE AT VALDEZ, ALASKA.
IF THIS RESOLUTION NEEDS TO BE INTRODUCED TO THE STATE LEGISLATIVE
I WOULD VERY MUCH APPRECIATE IF YOU WOULD SUPPORT IT AND
INTRODUCE IT AS WELL. THANK YOU.

SINCERELY,


JERRY WONGITILIN SR. MAYOR
CITY OF SAVOONGA

C.C: REP. RICHARD FOSTER
LT. GOVERNOR FRAN ULMER

Local Gov - 2

Introduced by : City of Savoonga, Alaska
Date: November 13, 1995

Resolution of the Alaska Municipal League

Resolution No. 96-01

A RESOLUTION SUPPORTING AN AMENDMENT TO AS TITLE 29
TO GIVE AN OPTION TO SECOND CLASS CITIES
TO PERMIT THEIR MAYOR TO BE ELECTED
DIRECTLY BY THE VOTERS.

WHEREAS, the Alaska Municipal League supports the policy of providing municipalities with the maximum of flexibility and local control in the exercise of municipal powers, and

WHEREAS, under current law, the mayor of a second class city must be elected from and by the council and may not be elected directly by the voters,

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports amendments to AS Title 29 that will permit second class cities the choice of whether to elect the mayor directly by the voters or to continue to elect the mayor from and by the council.

This resolution was approved for submission to the Alaska Municipal League membership by the governing body of City of Savoonga, Alaska on November 09, 1995.

BM# 7